

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

KRISTAL L. THOMPSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-0139-CV-W-HFS
)	
SUN LIFE ASSURANCE COMPANY)	
OF CANADA, et al.,)	
)	
Defendants.)	

MEMORANDUM TO COUNSEL

I am informally advised that some \$34,000 in life insurance proceeds, designated for the son of plaintiff and defendant Baumgarten, have been paid to a custodial account controlled by the father, and thereafter removed. Plaintiff alleges she has been named conservator in Kansas for the minor son. The parents each wish to control the proceeds, presumably for the protection of the son's interests.

It is reported that defendant Baumgarten has refused to answer pertinent questions on deposition.

Whether the Kansas conservatorship is designed to apply to the proceeds is unclear. If so, whether there is a difference in State laws on this subject is unclear, assuming Missouri custodial account law has been followed. Court orders that defendant Baumgarten respond to questions may be appropriate, and a court ruling on the respective rights of the parents to control the proceeds may be necessary. All this would of course create unnecessary expense, which might be avoided if some agreement could be reached by the parties.

A conference with a Magistrate Judge as mediator may be useful, or may simply run up

additional expenses.

Mr. Baumgarten's nonparticipation in these proceedings, as reported to the court, is not helpful to a quick and inexpensive resolution of the issues. Of course I assume at this time that he may be legally entitled to the proceeds, until I have been shown contrary facts or legal authorities.

A second telephone conference, this time on the record and with me, may be helpful. It is therefore requested that counsel seek to arrange with Mr. Baumgarten for a time at which he is willing to participate in a telephone call. Any of the parties may report progress or otherwise informally, by calling Sarah Wiese, law clerk, at (816) 512-5715.

The clerk of the court shall send a copy of this memorandum by regular and certified mail, return receipt requested, to defendant Calvin J. Baumgarten, 605 Pine Street, Ridgeway, Missouri 64481-9201.

/s/ Howard F. Sachs
HOWARD F. SACHS
UNITED STATES DISTRICT JUDGE

November 20, 2009

Kansas City, Missouri